

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF HUMAN SERVICES

In the Matter of the Denial of the License  
Application of Aaron Traynor and Jason  
Traynor to Provide Child Foster Care

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson at 9:30 a.m. on April 17, 2006, at the Office of Administrative Hearings in Minneapolis, Minnesota. Mary M. Lynch, Assistant County Attorney, Office of the Hennepin County Attorney, 525 Portland Avenue South, 12<sup>th</sup> Floor, Minneapolis, Minnesota 55415, appeared on behalf of Hennepin County and the Minnesota Department of Human Services. There was no appearance by or on behalf of the Applicants, Aaron Traynor and Jason Traynor, 6409 Medicine Lake Road, Golden Valley, MN 55427. There were no further submissions following the hearing.

This Report is a recommendation, not a final decision. The Commissioner of the Department of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the Office of the Commissioner, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155 (telephone no. (651) 296-2701), to ascertain the procedure for filing exceptions or presenting argument.

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail. If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

## STATEMENT OF ISSUE

The issue in this contested case proceeding is whether the Commissioner's order denying the license application of Aaron Traynor and Jason Traynor to provide child foster care should be affirmed because they are each disqualified from any position allowing direct contact with persons served by DHS-licensed programs under Minn. Stat. §§ 145A.04, 245C.14, and 245C.15, and Minn. Rules 2960.3000, 2960.3020, and 2960.3060.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

## FINDINGS OF FACT

1. The Applicants, who are brothers, received an emergency relative foster care license on December 6, 2004, after a court ordered that two of their relatives be placed in their care. They thereafter applied for a child foster care license, and background studies were conducted.<sup>[1]</sup>

2. After conducting background studies, the County determined that (1) Aaron Traynor had two disqualifications from direct contact with persons served by programs licensed by the Department because a preponderance of the evidence indicated that he committed acts on April 10, 2004, and April 16, 2004, in violation of Minn. Stat. § 518B.01, subd. 22 (misdemeanor violations of domestic abuse no contact order);<sup>[2]</sup> and (2) Jason Traynor had one disqualification because he was convicted on May 7, 2003, of misdemeanor theft in violation of Minn. Stat. § 609.52.<sup>[3]</sup> Letters of disqualification were sent to Aaron and Jason Traynor on February 7, 2005, but neither requested reconsideration.<sup>[4]</sup>

3. During the licensing process, Aaron Traynor disclosed that he had experienced alcohol abuse problems as recently as October 2004, and was unable to sign a statement that he has been free of chemical use problems for the past two years.<sup>[5]</sup> Jason Traynor disclosed a mental health diagnosis for which he was prescribed medication, but reported that he had discontinued taking his prescribed medication without consulting a physician.<sup>[6]</sup>

4. By letter dated April 18, 2005, Hennepin County Human Services and Public Health Department recommended denial of the license application.<sup>[7]</sup> The Department of Human Services thereafter denied the application for a child foster care license in order to protect the health, safety, and rights of children receiving services in DHS-licensed programs, noting that Jason and Aaron Traynor were each disqualified from any position allowing direct contact with such persons, Aaron Traynor was unable to document freedom from chemical use problems for the past two years, and Jason Traynor has an untreated mental health condition.

5. The Notice of and Order for Hearing in this matter was served upon the Applicants, Aaron Traynor and Jason Traynor, by U.S. mail on January 20, 2006, at 6409 Medicine Lake Road, Golden Valley, MN 55427.<sup>[8]</sup>

6. The Notice of and Order for Hearing mailed to the Applicants included the following notice: "Failure to appear at the hearing or prehearing conference will result in the allegations of the Notice of and Order for Hearing, including the incorporated order, being taken as true. This means that the action being appealed will be upheld."<sup>[9]</sup>

7. The Notice of and Order for Hearing originally scheduled the hearing for February 28, 2006. The Applicants contacted the Assistant County Attorney after receiving the Notice of and Order for Hearing and requested that the hearing be rescheduled. At the Applicants' request, the hearing was continued to April 17, 2006.<sup>[10]</sup>

8. The Applicants did not appear at the hearing scheduled for April 17, 2006, or have an appearance made on their behalf. The Applicants also did not contact the Administrative Law Judge between April 17, 2006, and the date on which this Report was issued.

9. Because the Applicants failed to appear at the hearing in this matter, they are in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing and the documents attached to the Notice of and Order for Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based on the foregoing Findings of Fact, the Administrative Law Judge hereby makes the following:

## **CONCLUSIONS OF LAW**

1. The Administrative Law Judge and the Commissioner of Human Services have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 245A.08.

2. The Applicants were given timely and proper notice of the hearing in this matter and all relevant procedural requirements of statutes and rules have been fulfilled.

3. Minn. Stat. § 245A.04, subd. 6, specifies that the Commissioner of Human Services shall evaluate the results of background studies and determine whether a risk of harm exists to the persons served by the program to be licensed, in this instance the children to be served under a foster care license. Subdivision 3d of the statute specifies that disqualification from foster care licensure shall be governed by Minn. Stat. § 245C.14 and 245C.15.

4. Minn. Stat. § 245C.14 states that the Commissioner of Human Services “shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services . . . upon receipt of information showing, or when a background study completed under this chapter shows . . . a conviction of or admission to one or more crimes listed in section 245C.15 . . . [or] a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15 . . . [or] an investigation results in an administrative determination listed under [Minn. Stat. § 245C.15, subd. 4(b)].”

5. Minn. R. 2960.3020, subp. 11(C) and (D), specifies that the Commissioner shall deny a license if there is documentation of a disqualification of the applicant for licensure that has not been set aside or there is any other evidence that the applicant is not in compliance with applicable laws or rules.

6. Minn. R. 2960.3060, subp. 3(C), states that applicants for foster care licensure must “sign a statement that they have been free of chemical use problems for the past two years.”

7. Under Minn. Rule 1400.6000, the Applicants are in default as a result of their failure to appear at the scheduled hearing.

8. Under Minn. Rule 1400.6000, when a party defaults, the allegations and the issues set out in the Notice of and Order for Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true and deemed proved.

9. The denial of the Applicants’ foster care license application is warranted.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED:

That the denial of the application of Aaron Traynor and Jason Traynor for a child foster care license be AFFIRMED.

Dated: May 17, 2006.

s/Barbara L. Neilson

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BARBARA L. NEILSON  
Administrative Law Judge

Reported: Tape Recorded (one tape).

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<sup>[1]</sup> Exs. 1, 2, 17.

<sup>[2]</sup> Exs. 1, 3, 4.

<sup>[3]</sup> Ex. 1, 5.

<sup>[4]</sup> Exs. 6-11.

<sup>[5]</sup> Exs. 13, 14, 16.

<sup>[6]</sup> Exs. 16, 17

<sup>[7]</sup> Ex. 1.

<sup>[8]</sup> Affidavit of Service by Mail attached to Notice of and Order for Hearing.

<sup>[9]</sup> Notice and Order for Hearing at p. 2, ¶ 12.

<sup>[10]</sup> See Letter to Applicants from the Assistant County Attorney dated Feb. 22, 2006, and Letter to the Applicants from the Administrative Law Judge dated March 6, 2006.